

Appl. No. 09/696,538
Amdt. dated March 21, 2005
Reply to Office Action of December 16, 2004

PATENT

REMARKS/ARGUMENTS

Claims 10-18 are pending.

Claims 1-9 were rejected under 35 USC Section 112, first paragraph, as failing to comply with the written description requirement. Claims 1-9 were also rejected under 35 USC Section 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter that applicant regards as the invention. Under both rejections, the examiner listed some concerns. Accordingly, in rewriting the claims as Claims 10-18, applicants have addressed the concerns of the examiner. It is respectfully submitted that all claims now fully comply with 35 USC Section 112 and therefore, it is respectfully requested that the rejection be withdrawn.

Claims 1-9 were rejected under 35 USC Section 13(a) as being unpatentable over Mosler, et al. (U.S. Patent No. 6,304,858) in view of Rebane (U.S. Patent No. 6,078,904) and Geoff Smith, "Computer Games Markets' Fun and Finance," Boston Herald, Boston Massachusetts, October 11, 1992, page 067 (hereinafter "Smith"). This rejection is respectfully traversed.

As the Examiner is aware, in order to establish a prima facie case of obviousness, three basic criteria must be met. First, the Examiner must identify prior art declaring all the salient elements recited in the claims. Second, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art to modify the reference or to combine reference teachings. Third, there must be a reasonable expectation that once combined, the elements will work as expected. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on Applicant's disclosure. In *Re Vaeck*, 947 F.2d 488, 20 USPQ 2d 1438 (Fed. Cir. 1991).

As will become apparent herein, it is respectfully submitted that all of the elements recited in applicants' claims are not taught or even suggested in Mosler, Rebane, or Smith. Specifically, none of these references discloses a method of operating a simulated training system, where the method includes setting up an account representing a pre-defined

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portfolio of non-zero value for each of a plurality of participants, where each of the accounts has no actual monetary value. Trades are then simulated by the plurality of participants and these simulated trades are applied to the portfolios of the trader participants to thereby update the representative value of the pre-defined portfolio. Each participant is then awarded an item of value in an amount having a monetary value that is a function of their respective portfolios performance over an investment period. However, none of the cited references disclose or even suggest executing actual trades having monetary consequences by a system operator in order to thereby earn money to provide the items of value. Therefore, even when the disclosures of the cited references are combined, one skilled in the art does not arrive at applicants' invention because key elements of the claimed invention are missing.

In summary, in accordance with the present invention, the simulated trading is actually rewarded as if the trades were actually taking place in the real world. In order to reward the participants with items of value, a system operator is "hedging against the risk" for the amount of money needed to reward the participants by actually executing real trades having monetary consequences to thereby earn the money to provide the items of value. This can involve known investment strategies and may include investing or not investing in stocks that the actual participants are trading in during the simulation.

With regard to the cited references, while Smith might disclose simulated trading games, both Mosler and Rebane are directed to actual trades and real investments and thus, are directed to "participants" investing and putting their own money at risk. Nowhere in any of the three references is it disclosed to set up an account representing a pre-defined portfolio of non-zero value for each of a plurality of participants, where each of the accounts has no actual monetary value, i.e., no initial deposit is required from the participants in order to open an account. With the present invention, while the participants simulate trading without using any actual money, the system operator is executing actual trades having monetary consequences in order to earn money to provide items of value (rewards) to the participants in order to reward them based upon their simulated trading. This important feature is not disclosed anywhere in any of the cited references either.

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More particularly, in his rejection, the Examiner indicates that Mosler does not explicitly disclose awarding each participant an amount that is a function of their portfolio's performance over investment. However, the Examiner contends that Rebane discloses such a step. The Examiner relies on col. 8, lines 6-36 and col. 14, lines 1-2 of Rebane. It is respectfully submitted that the Examiner is mistaken.

Col. 8, lines 6-36 of Rebane is directed to describing how analysis and computations used by Rebane are embodied in a software product for controlling and configuring a computer to receive data descriptive of various investments and their risk characteristics, to interactively determine an investor's risk tolerance function, to allocate investment assets to an investment portfolio, to compute the probability density function of the portfolio's performance with respect to the investor's assets, and to compute and maximize the expected value of the probability density function of the investor's probability preferences. Additionally, Rebane goes on to indicate his invention may also be used as a monetary risk management tool to determine asset allocation among sectors and also to select among candidate projects in a corporate planning environment. Finally, in lines 25-36, Rebane discusses user interface features that graphically capture and represent the investment allocation of the investment assets, along with useful information describing portfolio performance. The user interface graphically displays for each investment in the portfolio of the allocation of the investment assets to the selected securities in terms of both monetary and percentage allocations, along with user definable upper and lower bounds for the allocation. Rebane also discloses there is also displayed a graphical representation of the expected return of the portfolio given the investment allocation, preferably shown with a confidence interval. At col. 14, lines 1-2 merely disclose "interrogate predicted portfolio performance through editing portfolio return confidence intervals." Thus, it is apparent that nowhere in the sections relied upon by the Examiner does Rebane disclose "awarding each participant an amount that is a function of their respective portfolio's performance over an investment period." Indeed, Rebane discloses nothing about awarding any participants anything. Rebane is directed to actual investing.

It should be noted that Mosler et al. is directed to a method, system, computer program product, and data structure for trading in which a standardized contract is traded.

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Mosler et al. is primarily interested in interest rate swaps and the use of interest rate swap curves. On the other hand, Rebane is directed to a computer system and method for optimally allocating investment funds of an investor in a portfolio having a plurality of investments. Rebane, thus, works with risk tolerance and risk allocation. Nowhere in either reference is it mentioned or even suggested that a simulated trading system be operated and that accounts representing a predefined portfolio of non-zero value be set up for each of a plurality of participants. Thus, neither reference could possibly disclose or even suggest, or have a motivation, to award participants an amount that is a function of their respective portfolio's performance over an investment. Mosler and Rebane are concerned with real investments and trades and thus, any monetary "awards" are actually earned (or lost) by the participants with the participants' own money, unlike the present invention. Thus, they are not "awards."

Accordingly, it is quite clear that, based upon the above, neither Mosler nor Rebane nor Smith, either alone or in combination, teach, disclose or even suggest a method as recited in claim 10 and therefore, it is respectfully submitted that claim 10 is allowable.

Claims 11-18 depend, either directly or indirectly, on claim 10 and therefore, they are allowable for at least the reasons claim 10 is allowable.

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CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 415-576-0200.

Respectfully submitted,



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